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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAR 16 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Rulemaking to Amend Part 1 and)

CC Docket No. 92-287

Commission's initiative to create a new service in the 28 GHz band that will provide alternative video and telecommunications services, particularly in non-metropolitan areas, and will allow participation by all interested entities in such services. However, Rock Hill urges the Commission to exercise caution in the allocation of spectrum for this service and advocates the adoption of rules that will encourage participation by only serious applicants. Rock Hill offers the following comments on specific aspects of the Commission's proposed LMDS regulations.

1. Structure of 28 GHz Band

The Commission intends to follow the Suite 12 and Video/Phone proposals to license the 28 GHz in two blocks of 1000 MHz each to two different carriers. These bands would be divided into channels of 20 MHz each, which can be used for a "wide variety of services." Notice, para. 20.

Rock Hill is concerned with the broad, unprecedented allocation initially of the entire 28 GHz band for one new service to two licensees. Rock Hill recommends a more cautious approach whereby half of the spectrum, one GHz, be initially allocated to two licensees, with blocks of 500 MHz each, and that the remaining one GHz be held in reserve for future LMDS uses if the need is demonstrated or for later expansion of point-to-point microwave services. Such an approach would encourage development of spectrum efficient-technology for LMDS.

2. Cross-ownership

The Commission proposes not to impose any cross-ownership restrictions on LMDS participants, since there is uncertainty as to the dominant use of the service. In particular, the Commission states that, although the initial development suggests that video entertainment programming is likely to be the first use, there is no assurance that video entertainment will be the most viable or predominant use in all areas of the country. Notice, para. 13.

Rock Hill supports the Commission's initial conclusion to allow all participants to become LMDS licensees. Certainly, there is no basis to determine the predominant type of service that will be provided over LMDS or, indeed, whether one service will be uniformly offered in metropolitan and non-metropolitan areas. The flexibility to be able to offer different types of service in a particular area depending on innovation and market place forces should be fostered. Eligibility should not be restricted. In fact, local exchange carriers, cable television operators and others have expertise and a knowledge of the needs of various markets that could be advantageous in bringing diverse and innovative services to the public over LMDS. Eligibility should not be stifled on the mere possibility that one or another type of service might become predominant over this medium.

The Commission has determined that the public interest would be served by adopting new rules to further utilize the 28 GHz band.

local exchange carriers have the resources, expertise and public service commitment that will enable them to effectively and efficiently utilize LMDS in the public interest. Second, local exchange carriers would utilize these resources to bring services to the public in a timely manner and at reasonable rates and conditions. Third, local exchange carriers would assure stability and minimize temptation for speculation, which has been experienced with both cable television and cellular radio.

Despite its conclusion not to restrict eligibility for LMDS, the Commission seeks comment on two particular questions. One is whether local exchange carrier provision of wireless cable on LMDS would have anti-competitive implications. Rock Hill emphatically maintains that such participation would not have anti-competitive implications. For one thing, the Commission stated in the Notice that it cannot conclude with certainty that wireless cable will be the sole or even predominant service ultimately provided over LMDS throughout the country. To impose restrictions on particular participants on an unsubstantiated premise cannot be justified. Also, even assuming that wireless cable becomes the predominant LMDS service, the Commission has concluded that the public interest would be served by telephone company provision of video programming directly to subscribers.¹ Through this different medium, the Commission's public interest finding could be achieved.

The second question raised by the Commission is whether

¹Second Report and Order, Recommendation to Congress, and Second Further Notice of Proposed Rulemaking in CC Docket No. 87-266, 7 FCC Rcd 5781, 5784, 5847-5851 (1992).

Section 11 of the Cable TV Consumer Protection and Competition Act of 1992, P.L. 102-385, precludes cable operators from being LMDS licensees by virtue of the similarity between multichannel multipoint distribution service ("MMDS") and LMDS. Rock Hill



mass media services, which are logically provided on a community basis. In addition, smaller serving areas will encourage competition, since the number of competitors would be expanded and diversified. Increased competition should lead to greater service and product innovation. Also, smaller service areas should result in quicker deployment of service to non-metropolitan and less economically developed areas. This is so because licensees with larger areas would be more likely to concentrate their resources on the more profitable metropolitan areas to maximize their return on investment. Rock Hill therefore advocates the use of community-by-community licensing areas. Absent the adoption of such areas, Rock Hill believes the MSAs and RSAs would be a better alternative than BTAs, as suggested by the Commission.

5. Settlements

The Commission proposes to preclude any settlements among applicants for LMDS and any alienation of interest in any application for LMDS. Rock Hill supports the Commission's proposal. Only legitimate applicants should file applications and no one should be allowed to use the Commission's application process for personal gain where no intent exists to serve the public interest by offering needed communications services.

6. Transfer of Control/Assignment

The Commission proposes to prohibit the transfer of any LMDS license until the system has been constructed and is operating.

The reason for this policy is to preclude speculation. Rock Hill supports this approach and perceives these proposed procedures and requirements as discouraging speculation.

Conclusion

Rock Hill supports efforts to create a new service offering in the 28 GHz band, but would propose allocating only one GHz initially for LMDS. With regard to the regulatory structure proposed for LMDS, Rock Hill advocates that no cross-ownership prohibitions be imposed for local exchange carriers or cable television operators, that all LMDS licensees selecting common carrier status be considered non-dominant, that service areas be on a community-by-community basis, that settlements among LMDS applicants be prohibited, and that transfer of control and assignment restrictions be adopted.

Respectfully submitted,

ROCK HILL TELEPHONE COMPANY
FORT MILL TELEPHONE COMPANY
LANCASTER TELEPHONE COMPANY

By: 

John W. Hunter

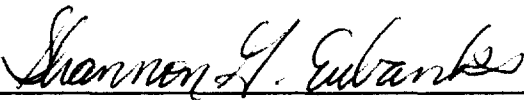
McNair Law Firm, P.A.
1155 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 659-3900

Their Attorney

March 16, 1993

CERTIFICATE OF SERVICE

I, Shannon G. Eubanks, hereby certify that a copy of the foregoing Comments of Rock Hill Telephone Company, Fort Mill Telephone Company, and Lancaster Telephone Company was mailed, postage prepaid, first-class United States mail, this sixteenth day of March, 1993, to the parties on the attached list.

A handwritten signature in cursive script, reading "Shannon G. Eubanks", is written over a horizontal line.

Shannon G. Eubanks

Henry M. Rivera
Edwin N. Lavergne
Jay S. Newman
Ginsburg, Feldman & Bress, Chtd.
1250 Connecticut Avenue, NJW
Washington, DC 20036

Jonathan D. Blake
Covington & Burling
1201 Pennsylvania Avenue, NW
P.O. Box 7566
Washington, DC 20004

Richard Rubin
Fleischman and Walsh
1400 16th Street, NW
Suite 600
Washington, DC 20036

Randall B. Lowe
Jones, Day, Reavis & Pogue
1450 G Street, NW
Washington, DC 20005

James L. Wurtz
Pacific Bell & Nevada Bell
1275 Pennsylvania Avenue, NW
Fourth Floor
Washington, DC 20004

Betsy Granger
Pacific Bell & Nevada Bell
140 New Montgomery Street
Room 1525
San Francisco, CA 94105

R. Ross Gray
American Telezone
Intercell International, Inc.
13103 N. Moss Creek Drive
Cypress, TX 77429

Robert N. Reiland
Ameritech
30 South Wacker Drive
Suite 3900
Chicago, IL 60606

Mark S. Fowler
Latham & Watkins
1001 Pennsylvania Avenue, NW
Suite 1300
Washington, DC 20004

James F. Ireland
Cole, Raywid & Braverman
1919 Pennsylvania Avenue, NW
Second Floor
Washington, DC 20006

George Y. Wheeler
Koteen & Naftalin
1150 Connecticut Avenue, NW
Washington, DC 20046

Leonard J. Baxt
Dow, Lohnes & Albertson
1255 23rd Street, NW
Washington, DC 20037

Jimmy K. Omura
CYLINK Corporation
110 South Wolfe Road
Sunnyvale, CA 94086

John D. Lockton
Corporate Technology Partners
520 S. El Camino Real
San Mateo, CA 94010

Werner Hartenberger
Dow, Lohnes & Albertson
1255 23rd Street, NW
Suite 500
Washington, DC 20037

Robert S. Foosaner
Fleet Call, Inc.
1450 G Street, NW
Washington, DC 20036

Dennis R. Patrick
Time Warner Telecommunications,
Inc.
1776 Eye Street, NW
Washington, DC 20006

Winston E. Himsworth
Tel/Logic Inc.
51 Shore Drive
Plandome, NY 11030

Harold Mordkofsky
Blooston, Mordkofsky, Jackson &
Dickens
2120 L Street, NW
Washington, DC 20037

Gardner F. Gillespie
Hogan & Hartson
555 13th Street, NW
Washington, DC 20004

Kevin J. Kelley
QUALCOMM Incorporated
1220 19th Street, NW
Suite 501
Washington, DC 20036

William J. Franklin
Pepper & Corazzini
200 Montgomery Building
1776 K Street, NW
Washington, DC 20006

Jeffrey Blumenfeld
Blumenfeld & Cohen
1615 M Street, NW
Suite 700
Washington, DC 20036

Andrew D. Lipman
Swidler & Berlin, Chtd.
3000 K Street, NW
Suite 300
Washington, DC 20037

Donald L. Schilling
SCS Mobilecom, Inc.
85 Old Shore Road
Suite 200
Port Washington, NY 11050

George H. Shapiro
Arent, Fox, Kintner, Plotkin &
Kahn
1050 Connecticut Avenue, NW
Washington, DC 20036

Richard McKenna
GTE Service Corporation
P.O. Box 152092
Irving, TX 75015

Mark P. Royer
Southwestern Bell Corp.
One Bell Center
Room 3524
St. Louis, MO 63101

Charles D. Ferris
Mintz, Levin, Cohn, Ferris,
Glovsky & Popeo
701 Pennsylvania Avenue, NW
Suite 900
Washington, DC 20004